

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF REVENUE  
DIVISION OF LOCAL SERVICES**

Bureau of Local Assessment  
Informational Guideline Release No. 88-407 Valuation of Municipally owned Lands  
September 1988

FISCAL YEAR 1989

**IN LIEU OF TAX PAYMENTS FOR MUNICIPALLY  
OWNED LANDS AND HOUSING AUTHORITY PROPERTY**

Chapter 518 of the Acts of 1987  
(Amending G.L. Ch.59, S.5D, 5F and 5G and Ch.121B, S.16)

**SUMMARY:**

This legislation amends G.L. Ch.59, S.5D, SF and 5G and Ch.121B, S.16, which outline procedures governing the calculation of in lieu of tax payments made by (1) cities, towns or districts for land they hold in other municipalities for specified purposes, or (2) by housing authorities. These provisions set forth the basis for determining the valuation and the resulting in lieu of tax payment upon acquisition of the property and go on to require that, in the year following a revaluation in the municipality in which the property is located, the valuation must be redetermined for the purpose of calculating the payment.

The purpose of Chapter 518 is to simplify and expedite the process of redetermining these values. The Commissioner of Revenue will no longer be responsible for redetermining the valuation of these properties. Instead, the assessors of the city or town where the property is located will now be responsible for the redetermination.

**GUIDELINES:**

A. Pre 1946 Municipally Owned Land (Ch.59, S.5D and 5E)

1. Qualifying Property

A city, town or district (including the watershed system of the Division of watershed management of the metropolitan District Commission (MDC) and the waterworks system of the Massachusetts Water Resources Authority (MWRA)) must make an annual payment in lieu of taxes to another city or town where it owns property on January 1, that:

- a. was acquired before January 1, 1946, and
- b. is used for water supply, watershed, sewage disposal or a public airport not yielding rent.

2. Payment Amount

The in lieu of tax payment is based on the average assessed valuation of the land only (with limited exceptions) for the three years preceding acquisition. This valuation is then multiplied annual by the tax rate of the city or town in which the property is located to determine the amount of the payment due for that fiscal year. When the city or town in which the property is located implements a reassessment program, the payment due in that fiscal year usually decreases because the municipality's tax rate is lower. In order to maintain the payment at substantially the same level as before the reassessment program, the statute establishes a procedure for redetermining the valuation used to calculate the payment.

3. Redetermination of Value

- a. The assessors of any city or town in which another city, town or district holds the property described in paragraph A-1 above will now redetermine the valuation of such property.

- b. The valuation must be redetermined in order to maintain the payment at substantially the same level as before the reassessment by applying the following formula set forth in Ch.59, S.5D:

Payment in Fiscal Year Prior to Reassessment

Divided By

Commercial Tax Rate in Fiscal Year of Reassessment

- c. The assessors must make the redetermination between January 1 and June 1 of the year following the reassessment. If the valuation cannot be redetermined by June 1 because the applicable tax rate has not been set, then the assessors must redetermine the valuation within a reasonable time thereafter.

For example, if a city or town reassessed property as of January 1, 1988 for FY89 tax billing, then the assessors must redetermine the valuation between January 1 and June 1, 1989. If the FY89 tax rate was not set by June 1, 1989, then the assessors must redetermine the valuation once the necessary information becomes available.

- d. After redetermining the value, the assessors must send a written notice of the new valuation to the city, town or district owning the property. The city, town or district may then appeal the redetermination of value to the Appellate Tax Board within 6 months of the notice.
- e. The valuation is to be used to calculate the payment in the fiscal year following the reassessment and in every year thereafter until a new valuation is redetermined by the assessors in the year following the city or town's next reassessment.

#### 4. Annual Payment

- a. Each year after the tax rate is set, the city or town in which the property is located must send the city, town or district that owns the property a written notice showing the amount of the payment due in that fiscal year. This payment request must identify and describe the property and set forth the valuation and tax rate used to calculate the payment due.
- b. In the year the city or town reassesses, payments made by the MDC and MWRA cannot be less than the amount due in the prior fiscal year. As a result of this "hold-harmless" pro-vision, the amount due in the year prior to the reassessment will be the payment due in the year the city or town reassesses except where the tax rate for that year is greater than the rate in the year prior to the reassessment. In that case, the amount of the payment due is calculated in the usual manner by multiplying the valuation by the tax rate.

For example, the payment due from the MDC or MWRA in FY88 was \$2,000 based on a valuation of \$100,000 and a tax rate of \$20.00. The city or town reassesses in FY89. The FY89 tax rate is \$18.50 so that the payment due in FY89 would decrease to \$1,850 (\$100,000 multiplied by \$18.50). However, since the MDC and MWRA are required to make a payment of at least the amount due in the year prior to the reassessment program, the amount due in FY89 would be \$2,000, not \$1,850.

Payment requests to the MDC or MWRA in reassessment years should show how the payment due was determined by including the following information:

- (1) Amount of Prior Year's Payment  
(Valuation x Prior Year's Tax Rate)
- (2) Amount of Current Year's Payment  
(Valuation x Current Year's Tax Rate)
- (3) Payment Due  
(The greater of the two amounts shown).

#### B. Post - 1946 Municipally owned Land (Ch.59, S.5F)

##### 1. Qualifying Property

a. Municipalities

A city or town must make an annual payment in lieu of taxes to another city or town where it owns property on January 1, that:

- (1) was acquired on or after January 1, 1946, and
- (2) is used for any public purpose.

b. Districts

A district (including the watershed system of the MDC and the waterworks system of the MWRA) must make an annual payment in lieu of taxes to any city or town other than those comprising the district where it owns property on January 1, that:

- (1) was acquired on or after January 1, 1946, and
- (2) is used for any public purpose.

2. Payment Amount

The in lieu of tax payment is based on the average assessed valuation of the land and improvements for the three years preceding acquisition. This valuation is then multiplied annually by the tax rate of the city or town in which the property is located to determine the amount of the payment due for that fiscal year. As with pre-1946 property, the payment decreases in the year the city or town in which the property is located implements a reassessment program. This statute also provides a mechanism for redetermining the valuation used to calculate payments for post-1946 property, but the purpose of the redetermination is to establish a new payment level, rather than to maintain the former level.

3. Redetermination of Value

- a. The assessors of any city or town in which another city, town or district holds the property described in paragraph B-1 above will now redetermine the value of such property.
- b. The valuation will be redetermined at the full and fair cash value as of January first of the year in which the city or town shall be certified by the Commissioner as assessing property at full and fair cash value under G.L. Ch.40, S.56. For example, if a city or town is scheduled for triennial certification in FY89, then the valuations must be redetermined as of January 1, 1988.
- c. The valuations will be reviewed by the Bureau of Local Assessment as part of the city or town's certification review. As with other property, the Bureau's review will focus on whether the appraisal method used is appropriate and consistently applied.
- d. After certification by the Commissioner that the city or town is assessing at full and fair cash value, the assessors must send a written notice of the new valuation to the city, town or district owning the property. The city, town or district may then appeal the new value to the Appellate Tax Board within 6 months of the notice.
- e. The valuation is to be used to calculate the payment in the fiscal year following certification and in the years thereafter until the year following the city or town's next certification.

4. Annual Payment

- a. Each year after the tax rate is set, the city or town in which the property is located must send the city, town or district that owns the property a written notice showing the amount of the payment due in that fiscal year. This payment request must identify and describe the property and set forth the valuation and tax rate used to calculate the payment due.

- b. As with pre-1946 Property, payments made by the MDC and MWRA in the year a city or town reassesses cannot be less than the amount due in the prior fiscal year. As explained in paragraph A-4 (b) above, the payment due in those years will be the same amount due in the year prior to the reassessment, except where the tax rate has increased over the prior year's rate, and payment requests to the MDC or MWRA in reassessment years should show how the payment due was determined.

C. Watershed Lands Ch.59, S.5G)

1. Qualifying Property

The MWRA, through the Division of Watershed Management of the MDC, must make an annual payment to any city or town where the MDC holds property on January 1, that:

- a. is part of the Quabbin, Sudbury, Wachusett or Ware Watersheds, and
- b. is held for water supply or the protection of water supply sources.

2. Payment Amount

The in lieu of tax payment is based on the full and fair cash valuation of the land only (with limited exceptions), which is determined by the Commissioner every five years when he values state owned lands under G.L. Ch.58, S.13-17. For the next five years, this valuation is used to determine the amount of payment due the city or town in which the property is located by multiplying the valuation by the city or town's tax rate for the applicable fiscal year.

3. Redetermination of Value

- a. The assessors of any city or town in which the MDC holds the property described in paragraph C-1 above will now redetermine the valuation of such property.
- b. The valuation must be redetermined in order to maintain the payment at substantially the same level as before the reassessment by applying the following formula set forth in Ch. 9, S.5G:

Payment in Fiscal Year Prior to Reassessment

Divided By

Commercial Tax Rate in Fiscal Year of Reassessment

- c. The assessors must make the redetermination between January 1 and June 1 of the year following the reassessment. If the valuation cannot be redetermined by June 1 because the applicable tax rate has not been set, then the assessors must redetermine the valuation within a reasonable time thereafter.
- d. After redetermining the value, the assessors must send a written notice of the new valuation to the MDC and MWRA. The MDC or MWRA may then appeal the redetermination of value to the Appellate Tax Board within 6 months of the notice.
- e. The valuation is to be used to calculate the payment in the fiscal year following the reassessment and in every year thereafter until a new valuation is redetermined 1) by the assessors in the year following the city or town's next reassessment or 2) by the Commissioner in the year he next determines state owned land valuations.

4. Annual Payment

- a. Each year after the tax rate is set, the city or town in which the property is located must send the MDC and MWRA a written notice showing the amount of the payment due in that fiscal year. This payment request must identify and describe the property and set forth the valuation and tax rate used to calculate the payment due.
- b. As with pre-and post-1946 property, payments made by the MDC and MWRA in the year a city or town reassesses cannot be less than the amount due in the prior fiscal year. As explained in paragraph A-4(b) above, the payment due in those years will be the same amount due in the year prior to the reassessment, except where the tax rate has

increased over the prior year's rate, and payment requests to the MDC or MWRA in reassessment years should show how the payment due was determined.

D. Housing Authority Property (Ch.121B, S.16)

1. Qualifying Property

A city or town in which a housing authority holds property on January 1, for housing project purposes may require the housing authority to make an annual payment in lieu of taxes.

2. Payment Amount

If the city or town requires such a payment, the annual payment cannot exceed the average assessed valuation of the land and improvements for the three years preceding acquisition multiplied by the city or town's tax rate for that fiscal year. The maximum payment authorized decreases in the year a reassessment program is implemented because, as is the case with pre- and post-1946 property, the tax rate is lower. In order to maintain the maximum payment at substantially the same level as before the reassessment program, this statute also provides for redetermining the valuation used to calculate the payment.

3. Redetermination of Value

- a. The assessors of any city or town which requires an annual payment by a housing authority holding the property described in paragraph D-1 above will now redetermine the valuation of such property.
- b. The valuation must be redetermined in order to maintain the maximum payment authorized at substantially the same level as before the reassessment by applying the following formula set forth in Ch.121B, S.16:

Payment in Fiscal Year Prior to Reassessment

Divided By

Residential Tax Rate in Fiscal Year of Reassessment

- c. The assessors should make the redetermination by June 1 of the year following the reassessment or if the applicable tax rate has not been set by then, within a reasonable time after it is set.
- d. After redetermining the value, the assessors must send a written notice of the new valuation to the housing authority. The authority may then appeal the redetermination of value to the Appellate Tax Board within 6 months of the notice.
- e. The valuation is to be used to calculate the maximum payment authorized in the fiscal year following the reassessment and every year thereafter until a new valuation is redetermined by the assessors in the year following the city or town's next reassessment.

4. Annual Payment

- a. Each year after the tax rate is set, a city or town which requires a housing authority to make a payment must send a written notice showing the amount of the payment due in that fiscal year. This payment request must identify and describe the property and set forth the valuation and tax rate used to calculate the payment due.

**IMPLEMENTATION:**

A. The assessors in communities that reassess property in FY89 and thereafter will be responsible for redetermining the valuation of property located in their city or town that is subject to these payment in lieu of tax provisions.

B The Bureau of Local Assessment will provide assessors with the following:

1. Copies of all Bureau records for property located in their city or town that is subject to these payment in lieu of tax provisions.

2. Detailed instructions and sample forms.
3. Technical advice and assistance.

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The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

P.O. Box 9655, Boston, MA 02114-9655 (617) 626-2300

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